STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company	)	
	)	00-0259
Petition for expedited approval of implementation of a market-based alternative tariff, to become effective on or before May 1, 2000, pursuant to Article IX and Section 16-112 of the Public Utilities Act	)	
	)	(cons.)
Central Illinois Public Service Company Union Electric Company	)	
	)	00-0395
Petition for approval of revisions to market value tariff, Rider MV	)	
Illinois Power Company	)	
	)	00-0461
Proposed new rider MVI and revisions to rider TC.	)	

BRIEF OF COMMONWEALTH EDISON COMPANY ON REOPENING

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INTRODUCTION

The purpose of this proceeding is not, as some parties have suggested, to set prices at which suppliers must buy or sell power and energy, determine the strategies that suppliers must or should use to hedge risk, design a market, or assure that a given supplier can cover costs or maintain a profit margin. The purpose of this proceeding is simply to approve a methodology for administratively determining the market value credits used in calculating rates under the utilities' transition charge and Power Purchase Option ("PPO") tariffs. The briefs previously filed by Commonwealth Edison Company ("ComEd") in this proceeding explain in detail why the market value index ("MVI") methodology that is has proposed is a fair, just, and reasonable means of establishing those credits.

The Hearing Examiner's Proposed Order ("HEPO"), which was previously entered in this proceeding, recommended that the Illinois Commerce Commission ("Commission") approve the MVI methodology submitted by ComEd, with two substantial modifications. These were (1) to use Into Cinergy rather than Into ComEd values and (2) to impose a three-year sunset period. ComEd did not oppose these modifications in its Brief and Reply Brief on Exceptions. The HEPO also rejected certain proposed adjustments offered by AES NewEnergy, Inc. ("NewEnergy"), finding that NewEnergy's proposed adjustment to off-peak market values was not warranted (HEPO at 118) and that no adequate methodology for making such an adjustment had been presented in the record (*id.*); and further rejecting NewEnergy's proposed "optionality adjustment," finding that "the record does not support a finding requiring utilities to implement an optionality adjustment at this time" and that "the record simply does not contain a viable approach for use in quantifying an optionality adjustment" (*id.* at 117). The HEPO further noted that "there is no indication in the record that the magnitude of such costs is significant in relation to market values." (*Id.*). These findings were amply supported by the record evidence. (*See, e.g.,* Staff Br. at 40-41; ComEd Br. at 25-27; ComEd Reply Br. at 32-36; IP Br. at 23-24).

On January 23, 2001, the Commission granted Motions to Reopen that had been filed by NewEnergy and the Illinois Industrial Energy Consumers ("IIEC"). The NewEnergy motion sought an opportunity to secure additional evidence on its proposed off-peak and "optionality" adjustments. Specifically, NewEnergy sought additional evidence on (1) "the prices at which Ameren, Edison, and Illinois Power sold off-peak power during the last twelve (12) months" and (2) "the optionality adjustments utilized by the utilities in the wholesale marketplace today." (Motion for Additional Hearings of NewEnergy Midwest, L.L.C. ("NewEnergy Motion") at 15). NewEnergy claimed that this additional evidence would support its proposed adjustments. (*See, e.g.,* Reply of NewEnergy Midwest L.L.C. in Support of Its Motion to Hold Additional Hearings ("NewEnergy Reply") at 12). IIEC's motion requested additional hearings concerning the removal of the Into ComEd screen from the Bloomberg PowerMatch exchange and use of the electronic exchanges generally. (*See* Motion of Illinois Industrial Energy Consumers for Reopening the Record and Conducting Additional Hearings). The Commission granted both motions. This brief, like the hearings held during the reopening, is limited to the three issues raised in these motions.

During the reopening, the utilities have responded to four sets of data requests received by Staff and the Attorney General and provided some information to parties such as NewEnergy and IIEC. As is explained in detail below, the record on reopening does not warrant any change to the conclusions reached in the HEPO concerning the approval of the MVI methodology without either the off-peak or "optionality" adjustments proposed by NewEnergy.

The additional evidence in fact contradicts the claims made by NewEnergy both in its original testimony and in its Motion for Additional Hearings.

I. THE RECORD ON REOPENING CONFIRMS THAT THERE IS NEITHER A NEED FOR AN OFF-PEAK ADJUSTMENT NOR A METHOD FOR IMPLEMENTING SUCH AN ADJUSTMENT.

In its Motion for Additional Hearings, NewEnergy asserted that an examination of the prices at which the utilities have sold off-peak power during the past twelve months would show that an off-peak adjustment was necessary to account for differences between multi-day off-peak transactions and "spot" off-peak transactions. (*See*, *e.g.*, NewEnergy Motion at 4; NewEnergy Reply at 3). The record does not support NewEnergy's assertions. As agreed to by the parties, ComEd has provided to Staff and the Attorney General the prices at which it sold off-peak power in multi-day transactions during the past twelve months. Neither the Staff nor the Attorney General submitted any testimony supporting an adjustment to the off-peak values calculated under the MVI methodology.

In fact, the evidence submitted on reopening only bolsters the evidence already in the record against making such an adjustment. This is not surprising, because one of NewEnergy's own witnesses had previously confirmed that the premise of NewEnergy's argument in support of this adjustment—that off-peak spot prices are necessarily lower than the prices for longer-term or forward off-peak products—is incorrect. (*See, e.g.,* Tr. at 432-433, 466 (Kagan)).[1] The record on reopening simply reconfirms the fact that NewEnergy's assumptions

[1] ComEd cites to the transcript from the original phase of this proceeding as "Tr." and to the transcript on reopening as "R. Tr."

are wrong, and its arguments should be rejected. (*See* Nichols, ComEd Ex. 14.0 at 7 (attached as Attachment B)).[2]

II. THE RECORD ON REOPENING CONFIRMS THAT THERE IS NEITHER A NEED FOR AN "OPTIONALITY ADJUSTMENT" NOR AN APPROPRIATE METHOD FOR CALCULATING SUCH AN ADJUSTMENT.

Despite the clear evidence that ComEd's methodology already accounts for risks associated with serving an uncertain load (*see, e.g.*, ComEd Reply Br. at 29-33 (citing Huntowski, ComEd Ex. 4 at 13; Tr. at 784 (Huntowski); Tr. at 906 (Nichols); Tr. at 1008 (Crumrine)), NewEnergy has argued throughout this proceeding that an additional adder to account for "optionality" should be added to the MVI methodology. NewEnergy asserted that, on reopening, the Commission would see that the utilities had "obfuscated" evidence and that once the utilities were "compelled" to present additional testimony, it would be clear that an optionality adjustment was required. (*See, e.g.*, NewEnergy Motion at 11). Again, NewEnergy's assertions were not supported by the record evidence on reopening. What is now clear is that there exists *no* evidence to support NewEnergy's proposed "optionality adjustment" and that an additional adder to the MVI methodology to account for risks associated with serving an uncertain load would result in double-counting and serve only to artificially inflate the profits of alternative suppliers at the expense of the utilities, their customers, and their shareholders.[3]

[2] NewEnergy also suggested a new argument during the hearings on reopening, suggesting that it was inappropriate to use Power Markets Week in the methodology because "there is no off-peak activity for the Into ComEd spot market for the entire reporting period of November 13 to 17." (R. Tr. at 191). As ComEd's witnesses explained, even if there were no reported data (a fact not in the record), NewEnergy is confusing reported transactions with availability of power. Even if there were no transactions reported, this does not mean that there was no off-peak activity. (*See, e.g.*, R. Tr. 117-118, 191).

[3] Although Nicor Energy, L.L.C. ("Nicor") and Peoples Energy Services Corporation ("Peoples Energy") rallied in support of NewEnergy's attempts to gain an improper adjustment (*see, e.g.*, Nicor Energy, L.L.C.'s Response to NewEnergy Midwest, L.L.C.'s Motion for Additional Hearings; Nicor Energy L.L.C.'s Reply in Opposition to Commonwealth Edison Company's and Illinois Power Company's Motion to Strike; Response of Peoples Energy Services Corporation to NewEnergy Midwest, L.L.C.'s Motion for Additional Hearings), they did nothing to contribute to the record on reopening. Nicor and Peoples Energy failed to submit a single witness on reopening or even attend the hearing on reopening. Thus, they have provided no evidence in support of their position.

Before discussing the evidence, it is worth noting that there has been much confusion regarding the use of the term "optionality" in this proceeding. Despite NewEnergy's claim that "optionality" is "commonly used" in the electric industry, there has never been a clear definition of the term "optionality" provided in the record. (*See*, *e.g.*, Somers, NewEnergy Ex. 6.0 at 6). NewEnergy's witnesses have variously described "optionality" as both "a cost associated with uncertainty" and as "analogous to purchasing insurance to protect against variability." (*See, e.g.,* Somers, NewEnergy Ex. 6.0 at 6; Kagan, NewEnergy Ex. 4.0 at 9-10; *see also* Initial Brief of NewEnergy at 25-30; Reply Brief of NewEnergy at 27-29). Those witnesses with experience actually trading power and energy in the Midwest questioned both concepts. ComEd witness Leonard explained that he had never, in his experience either in the wholesale energy group of ComEd or in his experience in energy acquisition, seen the term "variability insurance" used. (R. Tr. at 85 (Leonard)). He further explained that there might not be any costs associated with serving an uncertain load, depending on the supplier's overall portfolio. (*Id.* at 107, 112-113 (Leonard)). Similarly, Ameren witness Eacret stated that he had never heard the term "optionality" until this proceeding, and that it was unclear whether the market would support any recovery of an "optionality premium." (*Id.* at 139, 155-156 (Eacret)). Various witnesses, including those presented by NewEnergy, made it clear that there is no industry agreement on how to define or measure "optionality."

As is explained further below, to the extent the term "optionality" refers to the cost of load and price uncertainty, it is already accounted for in the MVI methodology. (*See, e.g.,* Leonard, ComEd Ex. 11.0 at 2-3, 5-6; Leonard, ComEd Ex. 12.0 at 3; *see also* R. Tr. at 127 (Leonard)). To the extent it refers to optional "load variability insurance" procured by a particular supplier, it is not part of the market value for power and energy. In addition, there is still no record supporting a methodology for estimating "optionality." Thus, the HEPO properly denied the proposed optionality adjustment on the grounds that it was not warranted, and that there was no methodology shown for calculating it.

A. ComEd's Methodology Fully Accounts for Uncertainty.

As was explained in ComEd's previous briefs, due to all the adjustments incorporated in the market value index methodology, the methodology results in a market value credit that is *roughly 25% higher* than the price for electricity delivered on a level basis throughout the year. (*See, e.g.*, Huntowski, ComEd Ex. 5 at 4). This fact is uncontroverted in the record. A percentage of this difference reflects load and price uncertainty.

As was explained in the initial phase of this proceeding, and again on reopening, the MVI methodology accounts for load and price uncertainty by utilizing 8,760 hours of loads and the corresponding 8,760 hours of prices to create a representative probability distribution as opposed to using an expected weekday and weekend load shape by month. (*See, e.g.*, ComEd Reply Br. at 28-35 (citing Huntowski, ComEd Ex. 4 at 13; Tr. at 784 (Huntowski); Tr. at 906 (Nichols); Tr. at 1008 (Crumrine)); R. Tr. at 128, 208, 221, 222). This 8760 methodology is an enhancement of the Zuraski adjustment approved by the Commission in the delivery services proceeding (R. Tr. at 208 (Nichols)) and was specifically designed to reflect the price and load variability (*see id.* at 199, 221-222, 224-225 (Nichols)). It is analogous to the type of Monte Carlo simulations that NewEnergy claimed might help measure "optionality." (*See, e.g.*, Leonard, ComEd Ex. 11.0 at 6; Nichols, ComEd Ex. 14.0 at 6; *see also* R. Tr. at 213-215 (Nichols)). It became clear during the hearings that NewEnergy has never fully understood this adjustment or how load and price uncertainty are taken into account in the MVI methodology. (*See, e.g.*, R. Tr. at 207-208, 274-276).

Because the MVI methodology does account for load and price uncertainty, the "optionality" adjustment proposed by NewEnergy represents double-counting. No such adjustment could be made without making offsetting adjustments within the methodology as proposed. (*See*, *e.g.*, Nichols, ComEd Ex. 14.0 at 4; R. Tr. at 221-222 (Nichols)).

B. "Optionality" Does Not Define "Market Value."

NewEnergy had asked for reopening in order to determine what optionality models were used by utilities in setting prices for power and energy. (*See, e.g.*, NewEnergy Motion at 15; NewEnergy Reply at 13; Transcript of January 25, 2001 Status Hearing at 12-13). The evidence on reopening was clear: the utilities do not use "optionality models" to set prices. (*See, e.g.*, Leonard, ComEd Ex. 11.0 at 2; Breezeel, IP Ex. 1.7 at 2; Eacret, Ameren Ex. 8.0 at 2; R. Tr. at 146 (Eacret)). ComEd explained that suppliers generally manage the risks associated with uncertain load requirements through market monitoring and portfolio management. (*See*, *e.g.*, Leonard, ComEd Ex. 11.0 at 3). Whether a supplier incurs costs with respect to "optionality" and the prices it ultimately charges will depend on its overall portfolio and other market factors. (*See* R. Tr. at 81-82, 89, 107, 112-113). Ameren witness Eacret, who testified that Ameren does have an "optionality" model, explained why that model was not necessarily predictive of the market value for power and energy. (*Id.* at 155-56 (Eacret)). To the extent Illinois Power buys and sells energy, it does so through an agent. (*See id.* at 42 (Breezeel)). Overall, the testimony confirmed that market values simply are not determined by a particular supplier's costs.

NewEnergy's proposed "optionality" adjustment ignores other facts as well. These include the fact that ARES can use options and take other actions in order to both reduce costs and increase profits. An ARES could use options when serving customers at a fixed price that is calculated to provide extra profits when market values go down. (*See id.* at 81-82). Options can also themselves be bought and sold in order to increase profits.[4] As Mr. Leonard testified, the costs associated with options that are purchased by utilities are often borne by the utility's shareholders. (*See id.* at 122-125 (Leonard)). Utility shareholders should not have to bear costs associated with the risk management strategies of other suppliers as well, particularly since they will not share in any profits. It is worth noting that NewEnergy has not proposed any adjustments to the methodology if in fact due to purchasing options or risk management it or other suppliers make higher profits or save costs, nor has it proposed to make any adjustments to offset costs that the utilities incur and ARES do not, such as the costs associated with returning customers. (*See* Leonard, ComEd Ex. 12.0 at 2; R. Tr. at 104 (Leonard); *see also* Crumrine and Nichols, ComEd Ex. 9.0 at 4-5). Finally, NewEnergy and other nonutility suppliers have carefully avoided any examination of the prices at which they buy and sell power and energy, or their actual costs.

NewEnergy's confusion with the relationship between its proposed "optionality" adder and actual market values was illustrated by its choice of analogy during the hearings concerning automobile insurance. (*See* R. Tr. at 107-110). The questions posited to ComEd witness Leonard focused on the risk a purchaser of insurance was willing to assume as compared to the price the insured was willing to pay for the risk. ComEd is unsure of the relevance of this line of questions to the issues before the Commission. However, as Mr. Leonard explained, a car buyer's choice of insurance has no bearing on the market value of the car. (*See id.* at 135 (Leonard)). Similarly, NewEnergy's "load variability insurance" theories have not been shown

[4] This is one reason why the Commission has in various proceedings distinguished "option contracts" from contracts for the sale or purchase of power and energy. (*See, e.g., Re 1999 Neutral Fact-finder Process Under § 16-112(c) of the Public Utilities Act*, Dkt. No. 98-0769 (I.C.C. Feb. 26, 1999)).

to have any significant bearing on the market value for power and energy. In sum, as ComEd witness Leonard explained:

> Each supplier has its own costs and way of looking at market. Models do not provide or create market values. Others may not be willing to buy at the price you request, and if the market is sufficiently above your costs, you may still choose to negotiate. A particular supplier's costs do not equal market value. Nor is there necessarily a difference between the cost of serving a known load or one where the purchaser is able to vary the amount of power and energy taken from hour to hour in a defined range. Whether there would be a difference depends on a number of factors, which may include the supplier's and buyer's other sales and purchases in their portfolio and cost of operating any owned or controlled physical generation, and when and by how much the second purchaser deviates its load from what is expected.
>
> Overall, prices are established through subjective negotiations between the transacting parties. A trader would use his/her subjective judgment in determining whether to make an offer to serve any given load. . . . Relying on my knowledge of markets and the types of prices I have seen in analyzing wholesale market dynamics, it is my judgment that ComEd's market value index methodology produces reasonable estimates of market value for the loads of various customer classes at the times those estimates are made.

(Leonard, ComEd Ex. 12.0 at 2-3). Because the MVI methodology produces reasonable estimates of market value, it should be approved by the Commission.

C. There Is No Method For Calculating "Optionality" In the Record.

Even if there were evidence that an "optionality" adjustment is necessary—and the record is clear that there is not—there is not an appropriate method in the record for calculating this adjustment. NewEnergy proposed three options for calculating this adjustment: (1) the Monte Carlo simulation, (2) Black's Model, and (3) Ameren's "optionality" model. As explained below, the record is clear that neither the Monte Carlo simulation nor Black's Model would be appropriate for calculating "optionality." Nor is there any record support for using Ameren's "optionality" model.

First, the record is clear that the Monte Carlo simulation is not an alternative "methodology" for setting market value credits. NewEnergy's counsel was clearly confused when he suggested that Staff could simply perform a Monte Carlo simulation to determine the value of freed up power and energy. (*See* R. Tr. at 92). As ComEd witness Leonard explained:

> Monte Carlo simulation is not a black box into which you put numbers in and you come up with a numeric value for the value of "freed up" energy. It is simply a mathematical methodology which by its very nature is, in fact, a black box on the inside, the inputs being you use typically historical data with probabilities of occurrence, variation in those historical data points statistically, and the correlation of one data input to the other, the output being whatever you structured the machine to generate. My difficulty with much of the discussion around Monte Carlo simulation is my reading shows it to be held up as some type of a mystical model when it, in fact, is a mathematical technique that can be utilized in a variety of models.

(*Id.* at 92-93; *see also id.* at 213-214 (Nichols)). Likewise, Ameren witness Eacret stated that "[a] Monte Carlo simulation isn't so much a model as a mathematical technique that could be used to construct a model to simulate uncertain loads at uncertain prices." (*Id.* at 141). ComEd witness Leonard further explained that "[w]ith similar assumptions, Monte Carlo simulation and the MVI methodology, which already takes into account load and price uncertainty, will yield similar results." (Leonard, ComEd Ex. 11.0 at 6).

Second, the deficiencies associated with Black's Model were well documented in the initial phase of this proceeding. (*See, e.g.*, IP Br. at 18; Ameren Br. at 10-11; ComEd Br. at 21-22). The deficiencies of this model were again proved on reopening. (*See, e.g.*, R. Tr. at 141 (Eacret)). While NewEnergy witness Somers recommended using Black's Model to price uncertainty, he admitted that Black's Model is not typically used in the electricity industry without modification (R. Tr. at 291), that the assumptions used in this model are not directly applicable to electric markets, and in some respects are fundamentally different than behavior observed in electric markets (*id.* at 295). Although Mr. Somers claimed that some entities use a "modified Black's Model," he was unable to explain what modifications were made because any model employed by an electric utility that he had first-hand knowledge of is considered highly confidential and proprietary and subject to confidentiality agreements. (*Id.* at 292-293). In fact, Mr. Somers testified that even the identity of the entities using such a modified model was highly proprietary and confidential. (*Id.* at 293-294). Although Mr. Somers did not provide any of these models to ComEd for analysis or evaluation, he did confirm that model designs and assumptions used differed among customized models, and that the parties that design and use such models may differ on the assumptions used. (*Id.* at 294-298).

Third, NewEnergy's suggestion that "the Commission should order the Ameren adjustment to be incorporated in the MVI methodologies proposed by the other utilities" (Somers, NewEnergy Ex. 6.0 at 20) is not a workable solution. Ameren has explained that its "optionality model" is highly proprietary. (*See* R. Tr. at 143 (Eacret)). Ameren is not willing to share its model with ComEd or IP (*id.*), nor does it have any reason to believe that ComEd or IP would want to use this model because these companies may believe Ameren "highly over-valued or under-valued that risk, and they would have to make that decision" (*id.* at 144). ComEd cannot agree to a methodology without an explanation of how it is likely to work or the results it is likely to produce. (Nichols, ComEd Ex. 14.0 at 6). IP witness Breezeel also explained that it did not know if Ameren's proprietary model was "suitable for addressing the issue raised by NewEnergy, whether it is compatible with the way we compile data or whether it is capable of being run in such a manner as to meet the updating needs built into our MVI proposal."

(Breezeel, IP Ex. 1.8 at 3-4). Even NewEnergy's witness had to concede that a utility should not rely on a model that it never reviewed and that "[m]odels should be tailored to the purpose that it is used." (R. Tr. at 299 (Somers)). Moreover, the use of Ameren's proprietary model would result in a lack of reliance on objective data, relative transparency, and consistency. (*See* Nichols, ComEd Ex. 14.0 at 6).

In sum, not only is there no support in the record for an optionality adjustment to be made, there is no proposed methodology in the record that the Commission could adopt for making such an adjustment.[5]

D. NewEnergy's "Optionality" Witness Failed To Support Its Claims.

To rebut ComEd's testimony that an optionality adjustment was neither needed nor appropriate, NewEnergy presented the testimony of Daniel J. Somers—an "expert" who was first engaged to examine the issue of an "optionality" adder three and a half weeks before the hearing (and approximately one week before his prefiled testimony as due). (*See* R. Tr. at 315). Mr. Somers' qualifications to provide an "expert" opinion are limited at best. Mr. Somers never traded electricity or bought or sold power or electricity at retail (*Id.* at 320), a lack of experience for which NewEnergy previously criticized the utility witnesses (*see, e.g.,* NewEnergy Motion at 8).

Mr. Somers never worked on issues concerning electricity utility pricing or market values prior to taking a course at the Illinois Institute of Technology. (*See* R. Tr. at 320 (Somers); *see also* Somers, NewEnergy Ex. 6.0 at Attachment A). Since taking that course, Mr.

[5] ComEd notes that it has offered to include three years of PJM data in the MVI methodology to "reduce the chances of significantly understating or overstating the effects of load and price uncertainty in estimating the market value credits." (Leonard, ComEd Ex. 11.0 at 7; *see also* R. Tr. at 124 (Leonard)). This proposal was first formulated by NewEnergy in the initial phase of this proceeding. (Initial Brief of NewEnergy Midwest, L.L.C. at 29). Staff witness Zuraski has also agreed with this proposal. (*See* Zuraski, Staff Ex. 8.0 at 3). However, in the reopening NewEnergy appeared to reject its own proposal, recasting it as one made by ComEd. (Somers, NewEnergy Ex. 6.0

Somers has only worked as a project manager on financial modeling projects. (*Id.* at 321). Moreover, while Mr. Somers purported to explain how the cost of "optionality" is reflected in the energy market (Somers, NewEnergy Ex. 6.0 at 18-19), he conceded that he did not even know whether NewEnergy uses an optionality adjustment in setting retail prices (R. Tr. at 311), did not know whether NewEnergy purchases options (*id.* at 312) and did not know whether AES NewEnergy has any physical options (*id.*). His whole understanding of the MVI methodology came from conversations with NewEnergy's counsel, others at NewEnergy and his review of some of the materials filed in the proceeding. (*See id.* at 313-316 (Somers)).

Mr. Somers' inexperience may explain a series of false assumptions in his testimony. *First*, Mr. Somers had no basis to opine on a supplier's costs. He conceded that he had conducted no study of NewEnergy's costs (*id.* at 332); conducted no study of the risk management strategies or costs of Nicor Energy, Unicom Energy or Peoples Energy (*id.* at 312-13); and had no idea of what the strategies of any RESs are, what their costs are or how they compare to each other (*id.* at 313). He did agree that to the extent any supplier purchased "load variability insurance" it would limit that purchase to the percentage of load that was actually variable, which might be very, very small. (*Id.* at 310-311).

Second, Mr. Somers' claim that a "prudent supplier" would recover an "optionality" premium was unsupported by any study or analysis. Mr. Somers never even looked to see whether the prices in Midwest regional electric markets would support recovery of such an adder. (*Id.* at 319).

Third, Mr. Somers' claim that the current MVI methodology's use of historical price and load variability data is inadequate to incorporate the value of risk presented by future variability or uncertainty (Somers, NewEnergy Ex. 6.0 at 12) is unsupported by the record. The

at 20-21). NewEnergy has provided no explanation of the reasons surrounding this recent change of position.

MVI methodology's use of actual historical data regarding the variability and correlation of prices and loads is the most objective and transparent way to estimate future uncertainty. Indeed, Mr. Somers agreed that historical data is commonly used in uncertainty evaluations. For example, he agreed that Beta is a common standard risk measure for financial securities and that Beta is most commonly measured by examining how the price of the security has moved in the past. (R. Tr. at 301). Mr. Somers also agreed that many publications quote Betas based solely on historical data and that there are investors that use Betas as measures of future market risk when performing evaluation analyses. (*Id.* at 301, 303). He also agreed that stock price volatilities are often calculated using historical data. (*Id.* at 307). Ironically, in his testimony, Mr. Somers pointed to a historical data point to try to establish his claim that historical distributions cannot reflect future uncertainty. (Somers, NewEnergy Ex. 6.0 at 11, 13). Mr. Somers conceded that he was relying on this historical data to indicate that electric prices can be volatile. (R. Tr. at 303). Mr. Somers also conceded at other points that "[h]istorical data makes a good foundation for any analysis." (*Id.* at 304).

Fourth, Mr. Somers opinions regarding good faith scheduling requirements contained in the Utilities' delivery service tariffs (Somers, NewEnergy Ex. 6.0 at 19) are completely unsupported. As Mr. Somers conceded, he had absolutely no foundation to form this opinion:

- He never read ComEd's tariffs on good faith scheduling (R. Tr. at 331);
- He never scheduled deliveries of power and energy under the Open Access Transmission Tariffs (*id.* at 331-332);
- He was never been involved in a project that relates to the scheduling of transmission under those tariffs (*id.* at 332);

- He did not know how imbalance costs are accounted for in transition charges and power purchase option prices in Illinois (*id.*);

- He never read through the ComEd tariffs relating to imbalance costs (*id*).

Mr. Somers conclusion was sufficiently rebutted by ComEd's expert on good faith scheduling and ComEd's tariffs, Steven Naumann, in the initial phase of this proceeding.

For all of the above reasons, Mr. Somers testimony cannot support an "optionality adjustment."

III. ELECTRONIC EXCHANGES PROVIDE THE BEST AVAILABLE MEANS FOR COLLECTING MARKET DATA.

The record is clear that electronic exchanges continue to provide a "very timely, transparent, and unbiased view of the electricity market." (Nichols, ComEd Ex. 13.0 at 3). The presence or absence of Bloomberg PowerMatch as one such exchange does not change this conclusion. (*See, e.g.*, Nichols, ComEd Ex. 14.0 at 2). On reopening, only IIEC submitted testimony generally questioning the use of the electronic exchanges to gather data. However, IIEC's witness continued to confuses the market with the electronic exchanges (*see, e.g., id.*) as she has done throughout this entire proceeding (*see, e.g.,* ComEd Br. at 11 n.2, 19). The record is also clear that IIEC's witness does not have the expertise to offer an opinion on the viability of the electronic exchanges or the information they provide. (*See, e.g.,* ComEd Reply Br. at 17).

ComEd recognizes that there are some legitimate concerns with using electronic exchanges given that they are still evolving and that the information they post can change over time. However, as ComEd witness Nichols explained:

> The various electronic exchanges provide transparency to the market. Markets are dynamic, and the exchanges themselves may change over time. This may be a reason for monitoring, but it is no reason to discard

> use of the exchanges as a means of collecting data. The exchanges provide data that is far more accurate, transparent, and current than the NFF process. Even though a particular platform may change over time, electronic exchanges and electronic trading will continue to exist.

(Nichols, ComEd Ex. 14.0 at 2-3; *see also* R. Tr. at 219-220 (Nichols)).

Overall, the record is clear that the market value index methodology has produced higher market values, lower transition charges and more accurate price signals than the NFF process. (*See, e.g.*, HEPO at 110). Under these circumstances, approval and ongoing use of the MVI methodologies rather than retreat to a methodology that is clearly flawed would be in the best interest of the developing competitive market.

NewEnergy submitted testimony questioning the use of Into Cinergy as proposed in the HEPO rather than Into ComEd data from the exchanges as originally proposed by ComEd. The majority of the parties to this proceeding appear to believe that it is preferable to use data from the Into Cinergy exchange. (*See, e.g.*, Initial Brief of Staff at 21-22; Initial Brief of the People of the State of Illinois at 11; Reply Brief on Behalf of the IIEC at 11; *but see* Reply Brief on Exceptions of NewEnergy Midwest, L.L.C. at 11-14). If ComEd's original methodology is accepted by the Commission, ComEd is willing to use the Into ComEd exchange as originally proposed to the extent data is available. (*See* Nichols, ComEd Ex. 14.0 at 4). However, ComEd has agreed to use data from the Into Cinergy hub as proposed in the HEPO. (*See id.*). ComEd believes that either approach is workable. NewEnergy's proposals to modify the methodology and simply rely on Into ComEd offers should be rejected for all of the reasons previously stated. (*See, e.g.*, ComEd's Brief on Exceptions at 6; ComEd Reply Br. at 22-23).

CONCLUSION

For all of the foregoing reasons, ComEd requests that the Commission enter an order approving ComEd's alternative market index methodology with the modifications accepted by ComEd on the record, and deny any additional modifications proposed thereto.

Respectfully Submitted,

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Proposed new rider MVI and revisions to rider TC.	)	

NOTICE OF FILING

TO: SERVICE LIST

PLEASE TAKE NOTICE that on this date we have electronically filed with the Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62706 the Brief of Commonwealth Edison Company on Reopening in the above captioned matter.

DATED this 6th day of March, 2001.

____
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CERTIFICATE OF SERVICE

I, Courtney A. Rosen, an attorney, certify that I caused copies of the attached Brief of Commonwealth Edison Company on Reopening to be served on each of the interested parties by email and Federal Express, this 6th day of March, 2001.

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